FISH & RICHARDSON P.C.

1717 MAIN STREET
SUITE 5000
DALLAS, TEXAS
75201

Telephone
214 747-5070

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

Facsimile
214 747-2091

April 27, 2005

Web Site
www.fr.com

J. David O'Brien
20 Vesey Street, Suite 700
New York, NY 10007

Re: Class Action re September 11
       USDC-S.D.N.Y. (New York) - 03 MDL 1570 (RCC)

AUSTIN

BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Dear David:

I am writing to follow up on our telephone conversation of Wednesday April 20, 2005. During that conversation, we discussed whether you would agree to dismiss Khalid Al Rajhi voluntarily from this Consolidated Action, as every other Plaintiff has done. Although you would not take a position at that time, knowing that we have a deadline of Friday, April 29, 2005 to answer or otherwise respond, you promised to inform us of your decision by Monday, April 25, 2005. Per your request, I sent you a letter that detailed the other voluntary dismissals of Khalid Al Rajhi and included a proposed stipulation for filing with the Court. I also followed up the letter with numerous telephone calls and messages. However, to date you have not given us your promised response, are failing to answer your office telephone, and are not responding to the multiple messages that I have left at that number.

Unfortunately, your most recent failure to answer the telephone, respond to voicemail, or respond to written correspondence appears to be part of a disturbing pattern. We received no response to three separate letters sent to you in December, January, and February. Our April 20 telephone conversation is the only telephone call that has actually been answered by anyone at your office, and you have not responded to any of the telephone messages left at your office. Cases of this size and complexity cannot proceed through the courts in an orderly manner without all of the attorneys involved exhibiting the highest levels of professionalism. Your failure to respond to our normal correspondence or even to answer your telephone falls short of this standard. As one court has observed, "such failure to communicate with opposing counsel . . . demonstrates a lack of professionalism and inexcusable neglect of responsibilities."[1]

While your conduct has been to date only an inconvenience and burden on my client, it is about to impose a substantial burden on the Court as well. If we do not hear from you, we will be forced to file a motion to dismiss Khalid Al Rajhi addressing solely

---

[1] *Sellin v. Rx Plus, Inc.*, 730 F. Supp. 1289, 1294 (S.D.N.Y. 1990)

EXHIBIT A
TO MEMORANDUM IN SUPPORT OF MOTION
TO DISMISS KHALID AL RAJHI

FISH & RICHARDSON P.C.

J. David O'Brien
April 27, 2005
Page 2

the *Tremsky* complaint because you are the only Plaintiffs' counsel who has refused to voluntarily dismiss him.   Not only does drafting and filing such a motion unnecessarily burden my client, it would unnecessarily burden an already over-taxed Court.

To avoid imposing these unnecessary burdens, it is critical that you respond to us **by the close of business today** to resolve these matters. If I do not hear from you today, we will be forced to raise these issues with the Court. I look forward to hearing from you.

Very truly yours,

Ritch Roberts

90121899.2.doc

```
          ********************
      ***    TX REPORT    ***
          ********************


   TRANSMISSION OK

   TX/RX NO            0243
   CONNECTION TEL      26#00153531#12125716166#
   CONNECTION ID
   ST. TIME            04/27 11:43
   USAGE T             00'52
   PGS. SENT              3
   RESULT              OK
```

FISH & RICHARDSON P.C.

5000 Bank One Center
1717 Main Street
Dallas, Texas
75201

Telephone
214 747-5070

Date April 27, 2005

Facsimile
214 747-2091

To J. David O'Brien
20 Vesey Street, Suite 700
New York, NY 10007
Telephone: (212) 571-6111

Web Site
www.fr.com

Facsimile number 18226-00153531 / (212) 571-6166

From Ritch Roberts

Re Class Action re September 11
Our Ref.: 18226-001LL1

**Number of pages
including this page** 3

Message